

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

Case No. 1:19-cv-05244

v.

KIK INTERACTIVE INC.,

Defendant.

PLAINTIFF'S NOTICE OF SUPPLEMENTAL AUTHORITY

The U.S. Securities and Exchange Commission ("SEC") respectfully provides notice of the attached supplemental authority, namely Judge Castel's March 24, 2020 ruling in *SEC v. Telegram Group Inc., et al.*, SDNY Case No. 1:19-cv-09439 (**Exhibit 1**). While the SEC intends to discuss, as appropriate, Judge Castel's decision in its forthcoming memorandum in opposition to Defendant Kik Interactive Inc.'s motion for summary judgment (ECF Nos. 61-64) and reply in support of the agency's own motion for summary judgment (ECF Nos. 57-60), we provide the attached supplemental authority now because it relates directly to arguments made by both sides in the briefing that has already occurred regarding, among other subjects, (a) the applicability of Section 5 of the Securities Act and the so-called "*Howey* test" to the offer and sale of cryptocurrencies and digital tokens like Kin, (b) the legal import of an offeror's sale of tokens – or what Kik calls "rights" to Kin – using a SAFT (called an "interest in Grams" in *Telegram*); and (c) the availability of the exemption from registration contained in Rule 506(c) of Regulation D.

Dated: March 26, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on March 26, 2020, I caused the foregoing to be filed using the Court’s CM/ECF system, which will send notification of such filing to each counsel of record.

/s/ Stephan J. Schlegelmilch
One of Plaintiff’s Attorneys